

No.	Provision	Provision Heading	Issue	Requested Change
Provision C.2: Municipal Operations				
1	C.2.d.ii(2)	DO data	Collect DO data from all pump stations twice a year during the dry season.	Allow an exemption from monitoring in situations where it can be demonstrated that there is no potential water quality problem or where the discharge rate is too minimal to impact water quality. “Add Minimum Pump Size”
2	C.2.d.ii(4)	SW Pump Stations – Implementation Level	Inspect pump stations in the first business day after ¼ inch storm	Change to ½ inch storm
Provision C.3: New Development and Redevelopment				
3	C.3.a.i.(2) Page 15	Task Description	“303(d) listed waterbodies” may not be understood by everyone.	Include a list of current listed water bodies/pollutants in the Fact Sheet.
4	C.3.b.ii.(1)	Effective Date	The definition for “final, major, staff-level discretionary review and approval” in footnote 2 makes no sense. Question: What if the final discretionary review is not at the staff level but is issued by a hearing body such as the Planning Commission? Comment: Some of the examples listed are not even discretionary review—parcel maps and tract maps are ministerial review, not discretionary.	Change “Final, major, staff-level discretionary review” to “ Final discretionary review .” Delete footnote 2 because the definition is contained within the text. Restore the original language about “conformity” and delete the added language about complete applications. Referring to the determination of completeness makes no sense here because completeness determinations are discretionary. Discretionary review should be distinguished from ministerial review and that’s what the previous language about “conformity” accomplishes.
5	C3.b.ii.(1)d Page 18	Regulated Projects are defined in the following categories	Beginning 07/01/2011 all references in Provision C.3.bi.(1) change to 5,000 sq. ft.	<u>Maintain project size threshold at 10,000 sq. ft.</u> A study by Regional Board staff found that the existing 10,000 sq.ft. threshold captured 97% of all the impervious surfaces installed in the Cities of Livermore, Dublin, and Pleasanton. Also, the implementation of effective treatment controls

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				becomes significantly more difficult, and less cost-effective, on small sites. <u>Alternatively</u> , Do not require maintenance agreements or inspections for these sites.
6	C.3.b.ii.(1) Page 18	Effective Date	For development projects in this category that have received final, major, staff-level discretionary review and approval for adherence to applicable local, state, and federal codes and regulations, before July 1, 2011, the lower 5,000 square feet impervious surface threshold (for classification as a Regulated Project) shall not apply.	<u>Exclude from the 5,000 square foot threshold projects with applications deemed complete per the Permit Streamlining Act</u> prior to July 1, 2011. The State legislature enacted the Permit Streamlining Act in response to a “statewide need to ensure clear understanding of the specific requirements which must be met in connection with the approval of development projects and to expedite decisions on such projects.” When an application is deemed complete under the Permit Streamlining Act, expectations are created and a clock starts ticking. If an agency should, in the middle of the review process, impose a new stormwater treatment requirement that was not applicable when the application was deemed complete, this would require the re-design the project and defeat the Legislature’s efforts to ensure clear understanding of development permit requirements.
7	C.3.b.ii.(1) Page 18	Effective Date	For development projects in this category that have received final, major, staff-level discretionary review and approval for adherence to applicable local, state, and federal codes and regulations, before July 1, 2001, the lower 5,000 square feet impervious surface threshold (for classification as a Regulated Project) shall not apply.	<u>Better coordination with local permitting processes is needed.</u> If the Effective Date section is not revised to coordinate the applicability of the 5,000 square foot threshold with applications deemed complete per the Permit Streamlining Act (see above comment), then Water Board staff should specifically involve Permittees in the rewriting of this provision. As written it is confusing to development review staff and reflects the fact that state regulators, given the nature of their job, lack familiarity with the day-to-day functioning of the development review process.
8	C.3.b.ii.(3)	Other Redevelopment	The definition of “redevelopment” states that the site has some past development.	Change to “Redevelopment is any...on a site <u>containing existing impervious surface.</u> ”

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		Projects	This definition is way too strict. In Oakland, many redevelopment sites were originally undeveloped, then developed, and then the improvements were removed and the site was returned to its natural state (for example, in the course of remediating contaminated soil). It doesn't make sense to call a project a redevelopment project if it's on a site that had impervious surface once in the distant past but is now pervious.	
9	C.3.b.ii(3)	Other Redevelopment Projects	<u>Street Pavement Exemption.</u> The Program understands that the Water Board intends to maintain in the MRP the existing exemption for paving work in the right-of-way. This is expressed in the Water Board's document <u>General Comments and Responses - MRP November 2007 Tentative Order</u> (E-Mail communication from Dale Bowyer, March 2009). However, the Draft Tentative Order abbreviates the exemption language of the current permit to only "pavement resurfacing within the existing footprint". This language is far short of the affirmative language in the current permit which includes structural section rehabilitation and any other reconstruction.	<u>Proposed Resolution:</u> Replace the exemption language in the Draft Tentative Order with the language from the current permit, specifically "Excluded routine maintenance and repair includes roof or exterior surface replacement, pavement resurfacing, repaving and road pavement structural section rehabilitation, within the existing footprint, and any other reconstruction work within a public street or road right-of-way where both sides of that right-of-way are developed."

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10	C.3.b.ii(3) Page 19	Other Redevelopment Projects	This section does not mention roadway reconstruction projects, however the Fact Sheet (page 24) states that because Water Board staff expects that most road widening projects will not be able to separate runoff flows from existing lanes of travel from the runoff from new lanes of travel, road widening projects are not allowed the same 50% rule that applies to other redevelopment projects. This rule allows any redevelopment project altering less than 50% of the impervious surface of a previously existing development with no post-construction controls to design stormwater treatment only for the impervious surface being replaced and/or added as part of the project.	<u>Allow roadway widening projects that alter less than 50% of existing impervious surface to treat only the replaced and/or added impervious surface.</u> The MRP should not restrict the ingenuity and resourcefulness of municipal staff and design professionals. It is particularly difficult to provide onsite stormwater treatment facilities in the roadway right of way. It is not reasonable or practicable to burden roadway widening projects with an inflexible requirement to treat all stormwater runoff from the entire roadway.
11	C3.b.iii. Page 20	Green Streets Pilot Projects	Permittees shall cumulatively complete 10 pilot green street projects that incorporate LID techniques.....	<u>Eliminate Requirement.</u> The Permit already establishes a requirement for municipalities to comply with treatment requirement for road projects that create 10,000 sq. ft. of impervious surface and compliance with hydrograph modification requirement for new road projects that create an acre or greater of impervious surface. Given the current economic conditions faced by municipalities, expensive Pilot Projects, which are also redundant with other established requirements, should be eliminated from the Tentative Order.
12	C3.b.iii. Page 20	Green Streets Pilot Projects	Permittees shall cumulatively complete 10 pilot green street projects that incorporate LID techniques.....	<u>Include projects implemented since 2003.</u> If the green streets pilot project provision is not eliminated, please allow green streets projects implemented since the last permit was issued, in 2003, to count toward this requirement.

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13	C.3.b.iii.(2) Page 20	Green Streets Pilot Projects	Green street pilot projects shall contain “key elements” (a) through (e).	In the event that the green streets pilot project provision is not eliminated, please <u>clarify that (c) urban greenway segment is offered as an example</u> of an element that a green street may under special circumstances be able to incorporate, but is not required in order for a project to be considered a green street.
14	C.3.b.iii.(2) (d) Page 20	Green Streets Pilot Projects	A “key element” of green streets is described as “Parking management that includes maximum parking space requirements as opposed to minimum parking space requirements, parking requirement credits for subsidized transit or shuttle service, parking structures, shared parking, car sharing, or on-street diagonal parking.	<u>Eliminate section (d) parking management.</u> Parking management is not a component of a street and is handled through land use regulation as part of an overall strategy to reduce transportation demand generated by retail, office, industrial and other land uses. It is not part of street design.
15	C.3.b.iii.(2) (d) Page 20	Green Streets Pilot Projects	Permittees are required to conduct “appropriate monitoring of these projects to document the water quality benefits achieved.”	<u>Eliminate monitoring requirement.</u> Provision C.8 already places extensive monitoring requirements on the Permittees. Unless grant funding becomes available, it will be hard enough for the Permittees to implement green streets pilot projects, plus the necessary long-term operations and maintenance and verification inspections. Monitoring water quality benefits from individual LID installations is a cumbersome and costly requirement that will not improve water quality.
16	C.3.b.iii.(2) (a) and elsewhere Page 20	Green Streets Pilot Projects	In “key element” (a), the term “natural feature” is used to describe a landscape based facility that treats and/or infiltrating stormwater.	“Natural feature” seems like the wrong term because even landscape-based systems are not “natural” per se, they are designed and engineered systems. The term landscape-based is recommended, since it is a term that is associated with design.
17	C.3.b.iii	Green Streets Pilot Projects – Due Date	All pilot green streets projects shall be completed by July 1, 2013.	<u>Extend due date to at least July 1, 2014.</u> The unrealistic time frame for identifying projects, obtaining funds, planning, design and construction demonstrates a lack of familiarity

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				with the construction project development process. No one expects regulatory staff to understand the roadway project development process, therefore, the MRP would benefit from better communication and collaboration with Permittees who work on roadway improvements on a routine basis.
18	C.3.b.v.(1)(d) Page 21	Reporting	The reporting requirements for regulated projects include total area of land disturbed.	<u>Remove requirement for reporting area of land disturbed.</u> These data have no relevance to Regulated Projects for post-construction stormwater management. Collecting these data is unnecessary and cumbersome.
19	C.3.v.(2)	Reporting	Permittees shall report the capital costs, operation and maintenance costs, and legal and procedural arrangement in place to address the management of completed Green Street Pilot Projects.	<u>Eliminate Green Streets Reporting Requirement.</u> This is a cumbersome and non-essential reporting task; and therefore, should be eliminated. Green streets projects will be reported in the Table of New Development projects, as required in C.3.v(1).
20	C.3.c.i.(1)a	Low Impact Development-Source Control	Minimization of stormwater pollutants of concern in urban runoff through measures that may include plumbing of the following discharges to the sanitary sewer, subject to the local sanitary sewer agency's authority and standards.	Provide a statement that clearly establishes that the requirements to plumb discharges to the sanitary sewer are dependent upon the local sanitary sewer agencies approval. <u>Recommend changing "authority" to "approval".</u>
21	C.3.c.i.(2)(d)	Site Design and Stormwater Treatment Requirements	Footnote 3 is missing.	Add in footnote 3 or remove reference.
22	C.3.c.i.(2)(e)	Low Impact Development-Site Design and Stormwater Treatment	After completion of the site design measures specified in Provision C.3.c.i.(2)(d), treat as much of the remaining stormwater runoff...	<u>Add the words "as practicable" between "stormwater runoff" and "this includes any runoff leaving..."</u> . This is consistent with paragraphs (f) and (g).
23	C3.c.i.(4)	Low Impact	Notify the Water Board Executive	<u>Eliminate Requirement.</u> This requirement adds a burdensome

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		Development-Site Design and Stormwater Treatment	Officer prior to granting final discretionary approval to any regulated project that proposes to install vault-based treatment systems to provide primary treatment for 10-20% of the total Provision C.3.d specified runoff from site. Notification shall include a justification for the use of vault-based system.	and unnecessary step in the project review process.
24	C3.c.i.(5) Page 23	Low Impact Development-Site Design and Stormwater Treatment	Notify the Water Board Executive Officer prior to granting final discretionary approval to any regulated project that proposes to install vault-based treatment systems to provide primary treatment for more than 20% and up to 50 % of the total Provision C.3.d specified runoff from site. Notification shall include a justification for the use of vault-based system. Justification shall include documentation of site constraints and infeasibility of providing Equivalent Offsite Treatment.	<u>Eliminate Requirement.</u> This requirement adds a burdensome and unnecessary step in the project review process. The requirement to provide justification of the infeasibility to provide equivalent offsite treatment is another burdensome and unnecessary task placed on developers.
25	C3.c.i.(6) Page 24	Low Impact Development-Site Design and Stormwater Treatment	Obtain approval from the Water Board Executive Officer prior to granting final discretionary approval to any regulated project that proposes to install vault-based treatment systems to provide primary treatment for more than 50% of the total Provision C.3.d. specified runoff from site.	<u>Eliminate Requirement.</u> The ACCWP is opposed to this provision as it is an interference with local land use decision making. This is a new requirement that was not in the previous Tentative Order, and there is no rationale provided to justify this new requirement. Requiring approval from the Executive Officer puts municipalities at risk of not meeting their obligations to review and process the permit application under the time limits imposed by State Permit Streamlining Act. The Board states that the C.3 requirements are not

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				intended to restrict or control local land use decision-making authority. This requirement, however, is in direct conflict with that statement, and therefore, should be removed from the Tentative Order. Water Board staff should work with Permittees to develop a workable policy on the use of vault-based systems.
26	C.3.e.i Page 26	Alternative Compliance with Provisions C.3.b	Conditions associated with road widening and reconstruction projects, such as, lack of space and underground utilities often make it extremely difficult to install stormwater treatment systems at the site.	Allow Alternative Compliance for road widening and reconstruction projects.
27	C.3.e.i Page 26	Alternative Compliance with Provisions C.3.b	Alternative compliance is only available for infill projects and redevelopment projects.	<u>Allow alternative compliance in any location.</u> Limiting alternative compliance to infill and redevelopment projects appears to be based on the assumption that currently undeveloped areas should be developed in a manner that reserves ample green space for onsite facilities. Many municipalities with undeveloped areas are seeking to maximize density with smart growth development to avoid the “sprawl” that results from surrounding each separate project with ample landscaping. Also, stormwater runoff from roadways is particularly difficult to manage with onsite treatment. For such projects alternative compliance will be a useful tool.
28	C.3.e.i.	Task Description	Footnote 5 (Qualified Urban Uses) states that a density of 18 development units per acre is required for urban uses. 18 units per acre would only apply to residential projects.	Include a threshold, such as a minimum floor-area ratio, for nonresidential projects.
29	C.3.e.i(1)(a) Page 27	Alternative Compliance with	The Brownfields exemption is limited to brownfields projects that receive a	<u>Eliminate subsidy requirement for brownfields projects to be exempt from hydraulic sizing requirement.</u> This seems

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		Provisions C.3.b	subsidy or similar benefits.	unrelated to the goal of facilitating brownfield remediation. Most brownfield redevelopment does not receive subsidies or similar benefits.
30	C3.e.i.(1)d (ii) Page 27	Alternative Compliance with Provisions C.3.b	Transit Village Exemption: Parking restrictions: Restaurants, no more than 3 spaces/1000 sq.ft Offices, no more than 1.25 spaces/1000 sq. ft. Retail, no more than 2.0 spaces/1000 sq. ft.	<u>Revise Parking requirement to allow greater flexibility.</u> These ratios are unrealistically low and will not serve the goal of encouraging transit oriented development. A more appropriate maximum parking for transit-oriented commercial development would be the following: Restaurants = 5 spaces per 1,000 sq. ft. Offices = 2 spaces per 1,000 sq. ft. Retail = 2.5 spaces per 1,000 sq. ft.
31	C.3.e.i.(1)	Task Description	There is overlap between C.3 requirements and “green” building requirements that require stormwater management and water quality features. The result is unnecessary duplicative processes/requirements.	Projects certified “green” under either the LEED program or the Green Point Rated program should also qualify for alternative compliance. This would streamline the design and permitting process to avoid two duplicative processes/requirements.
32	C3.e.i.(2) Page 28	Alternative Compliance with Provisions C.3.b	Offsite projects must be constructed by the end of the construction of the regulated project. If more time is needed to construct the offsite project, for each additional year, up to three years, after the construction of the regulated project, the offsite project must provide an additional 10% of the calculated equivalent offsite treatment.	<u>Develop a workable alternative to this unworkable penalty.</u> It is reasonable to have as a goal incentivizing the timely construction of the offsite project. However the penalty of requiring additional treatment for tardiness is not reasonable. If, in the middle of the project, unpredicted delays prevent its timely construction, the proposed penalty would require a change to the project, resulting in further delays, and possibly exceeding space limitations on the designated site. Please work with the Permittees to develop alternate incentives and/or penalties.
33	C.3.g Page 30	Hydromodification Management	The HM provision does not include exclusions to the HM requirements that are included in Provision C.3.f.v(a)-(d) of	<u>Include in the MRP the existing exclusions to HM requirements.</u> The current municipal stormwater permit (as amended) includes the following exclusions from the HM

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			the current municipal stormwater permit as amended by Order No. R2-2007-0025. These exclusions have been omitted in the Tentative Order, despite assurances that the existing HM requirement would not be changed, in view of the fact that HM requirement went into effect very recently. These exclusions are important for retaining cost incentives that favor infill redevelopment in contrast to new development with higher impacts on water quality.	requirement: projects consisting of one single-family home that are not part of the larger common plan of development; sidewalks, bicycle lanes, trails, bridge accessories, guardrails, and landscape features associated with streets, roads, highways, or freeways under the Permittees' jurisdictions; transit village type of development; a project within a "Redevelopment Project Area" that redevelops an existing brownfield site, or the portion of a project that creates housing units affordable to persons of low or moderate income.
34	C3.h.ii.(6) Page 35	Operation and Maintenance of Stormwater Treatment Systems	Inspection of at least 20 percent of the total number (at the end of the preceding fiscal year) of installed stormwater treatment systems and HM controls. Inspection by the Permittee of all installed stormwater treatment systems subject to Provision C.3. at least once every 5 years.	<u>Revise requirement for prioritized inspection plan.</u> If Permittee is required to inspect all within 5 years, allow Permittee to develop an appropriate inspection plan. Eliminate the yearly 20% requirement. Require Permittee to submit an inspection plan indicating how they will inspect all at least once during the 5 year permit cycle.
35	C.3.h.iii	Maintenance Approvals	The provision states that if the responsible party has worked diligently and in good faith, the Permittees are in compliance with the provision.	<u>Revise to state that if the PERMITTEE (not the responsible party) is working diligently and in good faith then the Permittee will be in compliance.</u> What if the responsible party is <u>not</u> working diligently or in good faith but the Permittee is working diligently and in good faith (for example, by taking enforcement action to rectify the situation)? In that situation, the Permittee should not be held in violation of the provision.
36	c.3.h.iii	O&M verification C3 treatment systems – maint.	Due date for full implementation: "immediate" is not feasible. Requirement for a new database or tracking system and greatly expanded reporting in section	Delete section iv (1) from reporting. The only two items that the WB should be concerned with is design problems with specific types of BMPs and O&M problems with associated enforcement actions. The discussions required in section iv

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		approvals	c.3.h.iv(1) cannot be accomplished immediately	(3) of the reporting should be able to address and provide this information.
37	C.3.i	Required Site Design Measures for Small Projects and Detached Single Family Homes	Permittees shall require all development projects, which create and/or replace >2,500 sq. ft. to <10,000 sq. ft of impervious surface and detached single family home projects to install one or more site design measures.	<u>Eliminate Requirement.</u> All projects are already required to implement stormwater design/treatment requirements to the maximum extent practicable. This requirement is unnecessary, results in additional tracking/monitoring, and will have little or no real impact on water quality given that the majority of projects are already covered under the requirements based on the 10,000 sq. ft. threshold.
38	C.3.i.vi.	Reporting	A report containing the standard specifications for lot-scale treatment BMPs shall be submitted by July 1, 2012	Delete requirement for submittal, Water Board can always request to review as needed. Alternatively: Change submittal date to September 15 to align with Annual Report.
Provision C.4: Industrial and Commercial Site Controls				
39	C.4.a.ii.(1)	Legal Authority for Effective Site Management - Implementation Level	Legal authority is too broad as regards ability to oversee, inspect, and require expedient compliance and abatement at <u>all</u> sites that cause or contribute to pollution of stormwater runoff. The ordinances that municipalities adopted in the early 1990s were for the municipally owned/operated municipal separate storm sewer systems (MS4), not for stormwater runoff in general.	Revise the legal authority to what is required by federal Clean Water Act requirements to control pollutants that flow to municipally owned/operated MS4s.
40	C.4.a.ii.(2) and C.4.c.ii.(2)	Implementation Level and Enforcement Response Plan – Timely Correction of Violations	The requirement that violations shall be corrected during certain specified time periods is unrealistic and should be replaced with a more realistic estimate of 30 days.	Replace the requirement to correct violations “prior to the next rain event or within 10 business days” with a more realistic timeframe of 30 days.

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41	C.4.b.i.	Industrial and Commercial Business Inspection Plan – Task Description	The inspection plan should not be for sites within each Permittee’s jurisdiction because the flood control districts do not have businesses within their jurisdiction. Also, the sites covered by the plan should be ones that drain to an MS4 owned or operated by a municipality that is a Permittee.	Modify the language to limit the creation of an inspection plan to municipalities that have commercial and industrial sites. In addition, modify language about sites within a Permittee’s jurisdiction to just sites within a municipality that have stormwater drainage that flows to an MS4 owned or operated by the municipality.
42	C.4.b.ii	Implementation Level	This section requires each Permittee to annually update and maintain a list of businesses that could cause or contribute to pollution of stormwater runoff without limiting this requirement to certain Permittees and without limiting the requirement to businesses that drain stormwater to an MS4 owned or operated by a municipality.	Make similar modifications as suggested above to this permit section.
43	C.4.b.ii.(4)	Types/Contents of Inspections	This section requires that each Permittee conduct inspections, and this requirement should be limited to municipalities and not flood control agencies.	Make similar modifications as suggested above to this permit section.
44	C.4.b.ii.(6)	Record Keeping	The record keeping listed under this section is not as comprehensive as the recordkeeping required under the Enforcement Response Plan (C.4.c.ii.(4)). All of the inspection related record keeping should be listed consistently in one place in this section and not be listed in different places and expressed in different ways.	Consolidate all of the recordkeeping requirements in this section.
45	C.4.b.iii.	Reporting	The annual reporting requirements listed	Consolidate all of the annual reporting requirements in this

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			under this section are not as comprehensive as the annual reporting required under the Enforcement Response Plan (C.4.c.iii). All of the annual reporting should be listed in one place in this section. It is unclear what the purpose is of including language about the percent of violations resolved within 10 working days or in a timely manner.	section. If there are annual reporting items that merit additional discussion and consideration, these should be worked out following adoption of the MRP.
46	C.4.c.	Enforcement Response Plan	It is inefficient to have requirements expressed for different Enforcement Response Plans in Provisions C.4.c., C.5.b., and C.6.b. Requirements for recordkeeping and reporting should not be incorporated into the Enforcement Response Plan section as occurs in C.4.c.	Express the requirements for an Enforcement Response Plan (ERP) in one section of the permit and refer to this ERP, as needed, in other sections of the permit so that there is consistency in the requirements for an ERP.
47	C.4.c.i	Enf. Response Plan – Task Desc	Typo	Replace “public and private construction” with “industrial and commercial”
Provision C.5: Illicit Discharge Control				
48	C.5.a.ii.(1)	Illicit Discharge Detection and Elimination; Legal Authority; Implementation Level	The requirement to have adequate legal authority for “non-stormwater pollution” is overly broad. The authority should be more specific to non-stormwater discharges to MS4s owned/operated by Permittees.	Modify the legal authority requirement to having the ability to control non-stormwater discharges to the Permittees’ MS4 as required by the federal Clean Water Act.
49	C.5.a.ii.(2) and (3)	Implementation Level	The requirement to have adequate legal authority for discharges to “storm drains” is too broad.	Modify the legal authority requirement to having adequate legal authority to control discharges to the Permittees’ MS4.
50	C.5.b.ii.(2)	Enforcement Response Plan -	The requirement that violations shall be corrected within prescribed time periods	Replace the requirement to correct violations “prior to the next rain event or within 10 business days” with a more

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		Timely Correction of Violations	is unrealistic and should be replaced with a more realistic estimate of 30 days.	realistic estimate of 30 days.
51	C.5.b.ii.(2)	Enforcement Response Plan - Timely Correction of Violations	Requires guidelines on when to employ the range of regulatory responses from warnings, citations and cleanup and cost recovery, to administrative or criminal penalties.	Remove requirement of guidelines and allow municipalities to impose range of types of enforcement. Although the City can utilize all these enforcement tools, they are not always effective or municipality may not have that enforcement option. Requires re-writing process, ordinances, and protocols.
52	C.5.c.i	Spill Response	“If 911 is selected, also maintain and publicize a staffed, non-emergency phone number with voicemail, which is checked daily.” Requiring Permittees to check a voice-mail box on weekends and holidays would generally require payment at over-time rates. Municipalities cannot afford this and it is unnecessary.	Revise to “checked on work days.”
53	C.5.d	Illicit Discharge Mobile Sources	“establish oversight and control of pollutants from mobile sources” As a city, cannot even track or collect business licenses for these mobile businesses. Yet have participated in or shared information leading to enforcement of several mobile sources through collaboration with the Alameda County Environmental Crimes Task Force and County District Attorney’s office. The more this permit demands of individual agency staff time; the more staff may be forced to pull back on un-	Implementation level should consist of developing BMPs and reporting on successful partnering where it is available with entities/agencies that do have control. Example is the recent addition of owner certification to comply with ACCWP BMPs achieved by ACCWP partnering with Al. Co. Env Health Agency who permits mobile catering trucks.

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			funded regional participation.	
54	C.5.e.ii.	Collection System Screening – MS4 Map Availability Implementation Level	The requirement to utilize the USEPA/Center for Watershed Protection publication “Illicit Discharge Detection and Elimination: A Guidance Manual for Program Development and Technical Assessment” is unclear and should simply encourage the use of guidance, such as that provided by this manual.	Modify language to state that the “Illicit Discharge Detection and Elimination: A Guidance Manual for Program Development and Technical Assessment” and other similar manuals may be used for guidance.
55	C.5.e.ii.	Collection System Screening – MS4 Map Availability – Implementation Level	The requirement to make MS4 maps publicly available should be simplified to allow fulfillment of this requirement by making the Creek & Watershed Maps produced by the Oakland Museum of California available. These maps depict storm drain lines that are 2-feet or larger in diameter, which should be sufficient for most public interest/educational purposes.	Modify this requirement to allow the use of the Oakland Museum of California Creek & Watershed maps.
56	C.5.f.ii.	Tracking and Case Follow Up – Implementation Level	The information tracked is overly prescriptive and unnecessary. For example, information tracking about the response times will divert resources from doing the actual illicit discharge detection and elimination work.	Remove the detailed information listed in this permit section.
Provision C.6: Construction Site Controls				
57	C.6.ii.(4)	Implementation Level; Tracking and Reporting	All inspections must be recorded on a written or electronic inspection form...Permittees shall track in an electronic database or tabular format all inspections. This electronic database or	<u>Excessive Reporting.</u> This reporting requirement is too detailed and requires the development and maintenance of an additional “construction” inspection database. It appears that in order to comply with this reporting requirement, a new construction inspection form that captures the requested data

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			tabular format shall be made readily available to the Executive Office and during inspection and audits by Water Board Staff	will need to be developed. A database similar to the “Industrial and Commercial Inspection Database” will need to be developed to track these inspections and provide such data for the Annual Report. Revise reporting requirement to include a report on the total number, a summary of the construction inspections performed, and a summary of the violations observed/corrected.
58	C.6.ii.(4)	Implementation Level; Tracking and Reporting	The electronic database or tabular format shall record the following information:	If the requirement to report on individual inspections is not replaced with a requirement to report on a total number with summary information (see above), then <u>reduce the data that must be reported</u> . The “inches of rain since last inspection” is particularly unreasonable and cumbersome to implement.
Provision C.7: Public Information and Outreach				
59	C.7.b	Advertising Campaign	“a goal of significantly increasing overall awareness of stormwater runoff pollution prevention messages...” The goal of the advertising campaigns will be to change behavior. The best way to do that may not be to tie it to a stormwater message.	Delete the reference to increasing awareness of stormwater messages.
60	C.7.c.iii	Media Relation/ Reporting	Typo	Delete the “s” on Permittee, should be singular. Typo is repeated in the next several sections.
61	C.7.e.iii C.7.g.iii C.7.h.iii	Public Outreach /Reporting	Requires assessment of effectiveness for each of the events. This type of assessment may not be useful to Water Board staff or to the Permittees. Will divert resources.	Delete requirement to report on effectiveness and maintain reporting on activities.
Provision C.8: Water Quality Monitoring – Covered in Attachment 2				
Provision C.9: Pesticide Toxicity Control				
62	C.9.e	Track & Participate in	Bay Area Permittees and regional groups; such as BASMAA & BACWA;	The regional, statewide and national collaborative groups and processes will continue to work as they have. The only

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		relevant regulatory process	have a long and successful history of doing all the tasks in this section collectively. Individual agencies have widely variable resources and levels of participation. Mandating all these tasks does not change an agencies capability.	effective way the Waterboard can accelerate this process is through more consistent participation and dedication of its resources. Section C.9.e should be deleted from the permit.
63	C.9.f	County Ag Commission – Report violations	The Waterboard needs to develop effective relationships with DPR and the County Ag Commissions directly, not attempt to mandate this upon NPDES Permittees	The task descriptions of section i should be recommendations, not mandates, otherwise it should be deleted from the permit. The reporting requirement should be information provide to the Water Board by the County Ag Commissions and/or DPR and should be removed from this permit.
Provision C.10: Trash Reduction				
64	C.10	Trash	The requirements of this section cannot be met financially by the Permittees. Water Board staff has estimated a \$6.06 per capita cost to Permittees which in actuality is \$27,473,822.04. Permittees, just like the State, are in massive budget deficit and the stormwater programs even this depression was already under funded due to Prop 13 restrictions on increasing revenues.	State and/or Federal funding for this un-funded mandate must be in place before placing this requirement on local public agency Permittees.
65	C.10.a.i	Trash Reduction	“While Permittees have completed some assessment of trash impacts in Santa Clara and San Mateo counties...”	Add Alameda to the list of counties (See Attachment 4).
66	C.10.a.v.	Trash Capture	Previously Installed Trash Capture Device Credit: “Credit can be claimed for trash full capture devices...” Other devices such as sea curtains that	Revise to clarify that trash capture devices other than full capture devices are also eligible for credit.

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			have been previously installed should be eligible for credit as well.	
Provisions C.11 and C.12: Mercury and PCB Controls				
67	C.11 and C.12	Mercury and PCB Controls	While the revised Fact Sheet does clarify that the proposed pilot studies in C.11.c through C.11.f should be targeted primarily towards identifying potential reductions to PCB loads with evaluation of potential mercury reductions as a piggyback aspect of their design, the separate permit provisions are still confusing.	Combine C.11 and C.12 into one provision, with separate subsections only where the provisions actually differ for the two pollutants.
68	C.11.a	Mercury Controls – Regional collection & recycling	Mercury in all forms; fluorescent lamps, batteries, thermometers, medical devices dental amalgam or elemental; is a universal waste under state and federal law. It must be recycled or disposed as hazardous waste and as such is tracked and under the jurisdiction of DTSC. Through BACWA and CIWMB efforts consumer mercury is already being collected. Due to data gaps and in order to assist the Water Board most agencies are already making significant progress and reporting this requested information via BACWA's BAPPG committee and in individual NPDES P2 reports.	Section i should be changed to acknowledge the existing program and consolidate those few stormwater Permittees into the existing framework and effort to facilitate efficiency and consistency. Section ii should contain an exemption for Permittees that are already reporting this information to the Water Board in their P2 reports or via BACWA regional reporting to eliminate double reporting and costs associated with the inefficient government mandates.
69	C.12.a	PCB Controls – PCB identification	Per our previous comments, we disagree with the Fact Sheet assertion that “there is enough experience and/or background	Revise title of provision to “Conduct Pilot Projects” and make following revisions to text: Section i – Task Description – delete the last sentence

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		training	<p>knowledge” to go directly to region-wide implementation. This is inconsistent with the Basin Plan Amendment recently adopted for the PCB TMDL which states “in the first five-year permit term, stormwater Permittees will be required to implement control measures on a pilot scale to determine their effectiveness and technical feasibility.” The Water Board appears to be attempting to mandate local agencies to circumvent existing hazardous waste laws such as RCRA & CIRCLA at the federal level and CCRs at the state level. Building inspectors and stormwater industrial facility inspectors do not have authority or jurisdiction in this area.</p> <p>Cross discipline training within a Permittees agency as information emerges regarding PCB containing construction materials is a great idea and may yield some tangible results in time. As a multi-discipline inspector that includes industrial stormwater, pretreatment and CUPA programs is a rare occurrence rather than the norm among agencies, it is likely that the only information to be derived from surveying industrial sites for PCBs or PCB containing equipment is going to be re-identification of the few remaining electrical transformers, capacitors and</p>	<p>“Permittees shall incorporate such PCB identification into industrial inspection programs.” Scope should be limited to a few pilot projects in different communities reflecting the diversity of organizational approaches and experience with inspection and hazardous waste management.</p> <p>Section ii – Implementation Level – delete “document incident in inspection report and” as under the law a CUPA, Environmental Health Inspector or DTSC has no action it can take just because a facility has PCB containing electrical components on its site.</p> <p>Section iii – change to “Permittees shall report successes and failures with training and intra-discipline efforts of expanding knowledge regarding PCB containing materials.</p>

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			light ballasts. These industrial facilities are well aware of their inventory and diligent in proper disposal of this equipment at end of service life or failure. This equipment is sealed and represents minimal threat to water quality.	
70	C.11.b	Monitor methyl mercury	Sampling method is inconsistent with updated C.8.f.iv.	Revise provision to reference methods in C.8.f
71	C.12.b	PCB Controls – Pilot projects to Evaluate managing PCB-containing materials during demolition and renovation	<p>a) Per previous comment, this provision is overly prescriptive and inconsistent with the scope and stakeholder process of a regional project already begun to develop these BMPs via a Proposition 50 grant to the San Francisco Estuary Project.</p> <p>b) Present tense in Fact Sheet implies continuing use of PCBs in building materials. This adds to confusion arising from task description language that appears to include PCB equipment types such as those discussed in C.12.a, which are already covered by existing hazardous waste regulations.</p> <p>c) The reporting date for Task 1 has been updated from the previous Tentative Order, but not those for Tasks 2, 3 or 4. Due to the suspension of bond-funded</p>	<p>a) Per our previous request, this provision should be revised to require good faith regional participation by Permittees in the Proposition 50 grant project, and allow flexibility to follow the actual scope and sequencing of the Proposition 50 project, which is under discussion between SFEP and Water Board TMDL staff due to liability problems and access issues associated with the proposed Sampling and Analysis Plan.</p> <p>b) Revise the first sentence of the Fact Sheet to “PCBs were historically used in a variety of building materials...” and revise C.12.b.i Task Description to read “Permittees shall evaluate potential presence of PCBs in legacy construction materials such as caulks and adhesives at construction sites...”</p> <p>c) Revise C.12.b.iii so that reporting dates for Tasks 2-4 are 1 year later, and to recognize uncertainty in actual delivery dates for grant products</p>

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			grants the Prop 50 project may not be able to meet even the updated timelines.	
72	C.11/12.c.	Mercury and PCB Controls – Pilot Projects to Investigate and Abate On-land Locations	<p>a) C.11.c inconsistent with C.12.c, with inappropriate reference to private property and incorrect section numbering. See also general comment above on C.11/12 coordination.</p> <p>b) The number of pilot projects is excessive in light of current economic problems and lack of viable grant programs.</p> <p>c) Requirement that Permittees “must ensure that cleanup occurs” is ambiguous and may imply excessive liability for Permittees. The Water Board has no authority via this permit to change federal law enacted via CERLA regarding who is a potentially responsible party due to a release or spill and contamination. As holders of public lands in trust for its constituency, local agencies who exercise due diligence and perform all appropriate inquiries are actually protected from being named responsible parties. Deleting out the word parties after responsible from the previous draft does not change the context or make this statement legal.</p>	<p>a) If not combined with C.12 per above recommendation, revise title of provision C.11.c to delete the words “private property”. Second section numbered i should be ii. Third section numbered ii should be iii.</p> <p>b) Cap number of pilot projects in C.11/12.c.ii at 1 per county for this permit term.</p> <p>c) Revise provision C.11/12.c.ii(1) to reflect limits of Permittees’ authority. Delete the last sentence of section ii, “Permittees are responsible for contaminants located on public right-of-way and the stormwater conveyance system.</p>
73	C.11/12.d	Pilot Projects to Evaluate and	Final reporting date has been updated in c.12.d.v but other dates for compliance or	Revise C.12.d.iii and iv so that reporting dates are 1 year later, and to recognize uncertainty in actual availability dates

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		Enhance Municipal Sediment Removal and Management Practices	reporting are unchanged from previous version. This is a concern since it was assumed the initial evaluations would incorporate reports and analyses from the Proposition 13-funded Urban Runoff BMPs project.	for grant-funded products.
74	C.11/12.e	Pilot Projects to Evaluate On-Site Stormwater Treatment via Retrofit	a) Number of pilot projects is excessive. See also comment (a) under C.11/12.c. b) C.12.e.iii presupposes that feasibility evaluations in C.12.e.ii will find all 10 sites have high potential for technical feasibility and effective reductions via retrofit.	a) Reduce required number pilots to 1 per county. b) Revise provision so that an alternate list of pilot study sites may be approved by Executive Officer based on outcomes of the feasibility study.
75	C.11/12.f	Diversion of Dry Weather and First Flush Flows to POTWs	a) The infrastructure and system to cross connect stormwater pump stations to POTWs does not exist and there is no funding to accomplish this. City and County of San Francisco has spent millions of dollars trying to manage a combined storm & wastewater system, had numerous sewer overflows and wastewater plant overloads. POTWs are designed to treat conventional pollutants; i.e. BOD, TSS, Fecal Coliform and minimal pH stabilization. They are not designed to treat the priority pollutants of concern in this MRP. Hence the very restrictive NPDES limits on the POTW discharge and the mandated need for a pretreatment program and local limits implementation.	a) We appreciate the statements made in the Comments and Responses Summary that: "Capacity and effluent limit considerations should be addressed during feasibility assessment component of these provisions. There is no requirement for POTWs to expand their capacity. The intent is to use existing spare capacity where it exists." We ask that this language also be incorporated in the Fact Sheet along with recognition that capacity limitations other than flow volume, mercury or PCBs may affect feasibility. In addition, C.11/12.ii(1) and/or the Fact Sheet should be modified to emphasize the importance of developing consensus on a consolidated strategy between BASMAA, BACWA, all Permittees and all POTWs during the term of this permit, as the prerequisite to pilot studies.

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			<p>The response to comments stating that it is the intent to use excess capacity of the POTW to treat stormwater appears to have a disconnect with the functional operation of POTWs in order to not violate their NPDES Permits. POTWs in order to meet their effluent limits and remain in compliance have already allocated all capacities. The only excess capacity in the allocation methodology is a safety factor that the Water Board sets standards for. The only way to add additional capacity is to expand the POTW and the only way to allocate existing capacity to stormwater is completely redevelop local limits, permanently providing allocation to stormwater and permanently removing that allocation from the industrial discharger sector to the POTW..</p> <p>b) The previous Tentative Order had inconsistent wording in C.11 vs. C.12, but now both C.c.11/12.f.ii(3) have been changed to specify implementation of “flow diversion” instead of “pilot studies”. This is illogical because the permit now presupposes that feasibility evaluations will identify 5 sites where diversions can be implemented as pilots. It also precludes potential alternative approaches that may generate valid estimates of potential reductions at pilot</p>	<p>b) Revise C.12.f.ii(3) to require implementation of pilot studies and monitoring-based estimation of load reductions.</p>

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			sites where structural diversions to POTW cannot be implemented during the required timeframe. Given the limited timeframe, any extrapolation of monitored flows will produce estimates and not measures of long-term average reductions in PCB loads.	
76	C.11/12.i	Development of a Risk Reduction Program Implemented throughout the Region	Provision should reflect recent and ongoing regional discussions among storm water and wastewater Permittees	Revise scope to focus on public education per BASMAA comments
Provision C.13: Copper Controls				
77	C.13.a	Architectural copper	a) Construction activities can be handlers with a SWPPP under C.3 and C.6. Post-construction activities cannot be reasonably controlled by Permittees. b) Fact sheet implies that copper is a feature of most or all roofs, gutters and downspouts	a) Revise C.13.a.ii(1) to eliminate reporting requirements for post-construction b) Revise Fact Sheet provision to refer to “some roofs, gutters and downspouts”
78	C.13.b	Pools, spas and fountains	This is redundant with C.3 provisions.	Eliminate requirement or insert text in provision or Fact Sheet to clarify that this is a reference to source control activities already incorporated elsewhere in the permit.
79	C.13.c	Vehicle brake pads	Fact sheet does not mention recent introduction of proposed legislation (SB 346-Kehoe) to phase out copper in vehicle brake pads sold in California	Revise Fact sheet to refer to “voluntary or legislated reductions”
80	C.13.d	Industrial Source	This is redundant with C.4 provisions	Eliminate requirement or insert text in provision or Fact Sheet to clarify that this is a reference to source control activities already incorporated elsewhere in the permit.

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81	C.13.e	Studies to reduce uncertainties	Date for submitting proposed work plan has been updated but not reporting date for findings and results.	Revise last sentence to specify report on findings in 2013 Annual Report.
Provision C.15 Exempted and Conditionally Exempted Discharges				
82	C.15.b.i.(1)(a)	Conditionally Exempted Non-Stormwater Discharges – Required BMPs/Control Measures	The requirement to “render pumped groundwater free of pollutants” is unnecessarily onerous and inconsistent with Discharge Prohibition A.1. The prohibition characterizes Provision C.15 as providing assurance that the discharge contains no pollutants of concern at concentrations that will impact beneficial uses or cause exceedances of water quality standards.	Modify the language to qualify that the discharge should not have pollutants of concern at concentrations that cause an exceedance of a water quality standard.
83	C.15.b.i.(1)(b)	Conditionally Exempted Non-Stormwater Discharges – Required BMPs/Control Measures	The language about being “consistent with Order No. R2-2007-033 NPDES No. CAG912004 requirements” should be deleted because NPDES-permitted discharges are exempt from the discharge prohibition.	Delete the new, proposed language about being consistent with Order No. R2-2007-033.
84	C.15.b.i.(1)(d) and (e)	Conditionally Exempted Non-Stormwater Discharges – Required BMPs/Control Measures	The monitoring of small, incidental discharges of pumped groundwater, foundation drains, crawl space pumped water, and footing drains for the full suite of chemicals listed at a frequency of a minimum of once a month is unnecessary and overly burdensome.	Delete the very prescriptive and burdensome monitoring requirements to the rare situations where a large discharge of potentially contaminated water merits the types of monitoring proposed.
85	C.15.b.ii.(1)(b)	Discharge Type – Air Conditioning	Discharges of air conditioning condensate from new commercial and industrial air conditioning units are only	Modify the language to allow discharge to storm drains provided the discharge does not cause an exceedance of a water quality standard.

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		Condensate – Required BMPs/Control Measures	allowed to landscaped areas or the sanitary sewer, where this is allowed, which is more stringent than the requirements for new large commercial and industrial air conditioning units described under (c). The option to discharge to storm drains should be allowed.	
86	C.15.b.ii.(1)(c)	Discharge Type – Air Conditioning Condensate – Required BMPs/Control Measures	The discharge of air conditioning condensate from new large commercial and industrial air conditioning units should not be prohibited to discharge to storm drains only when “adequate treatment measures are in place to meet water quality standards” because Discharge Prohibition A.1 only requires that the discharge not impact beneficial uses or cause exceedances of water quality standards.	Modify the language to state that these discharges may be allowed provided the discharge does not cause an exceedance of a water quality standard.
87	C.15.b.iii.(1).(b)(i), (ii), and (iii)	Discharge Types – Planned, Unplanned, and Emergency Discharges of Potable Water	These sections require that the either the Permittees notify and report specific information or require that the potable water discharger report to the Water Board staff. The Permittees should only be responsible for reporting their own activities to the Water Board staff, and additional notification and reporting by third parties should be handled by the Water Board through an NPDES permit or other regulatory mechanism. The Federal Register that adopted the	Modify this language to make it clear that the Permittees must only notify and report to the Water Board staff information about these discharges that they are responsible for implementing.

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			stormwater permitting requirements states the following: “Ultimately, such non-storm water discharges through a municipal separate storm sewer must either be removed from the system or become subject to an NPDES permit.” (Vol. 55, No. 22, Friday, Nov. 16, 1990, page 47995)	
88	C.15.b.iii.(1).(c)(i), (ii), and (iii)	Discharge Types – Planned, Unplanned, and Emergency Discharges of Potable Water - Monitoring Requirements	The section establishes monitoring requirements that the Permittees shall do or require of planned discharges. The Permittees should only be responsible for monitoring of potable water discharges that they are responsible for and not discharges by third parties.	Modify this language to make it clear that the Permittees are only responsible for monitoring discharges that they are responsible for and not discharges by potable water dischargers who are not Permittees.
89	C.15.b.iii(2)	Discharge Types – Planned, Unplanned, and Emergency Discharges of Potable Water - Unplanned Discharges	This section contains requirements for the Permittees to implement or require potable water discharges to implement BMPs, notify, monitor, and report to the Water Board staff unplanned potable water discharges. Similar to the preceding comments, the Permittees should only be responsible for these requirements for their own discharges and not- discharges by third parties. If the Water Board needs the information listed, it should be addressed through the adoption and implementation of an NPDES permit for potable water dischargers.	Modify this language to make it clear that the Permittees are only responsible for BMP usage, notifications, reporting, and monitoring of discharges they are responsible for and not dischargers by potable water dischargers who are not Permittees.

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90	C.15.b.iii.(2)	Discharge Types – Planned, Unplanned, and Emergency Discharges of Potable Water - Unplanned Discharges	Some of the requirements are overly prescriptive, such as notifying the Water Board within two hours of becoming aware of any aquatic impacts and reporting times of discovery, notification, and responding crew arrival time, and these requirements may interfere with responding to the unplanned discharge. In addition, there may be instances where the monitoring is infeasible because monitoring the discharge is unsafe or the discharge has ceased prior to being able to monitor.	Modify these requirements to eliminate overly prescriptive record keeping and reporting that interferes with responding to unplanned potable water discharges. In addition, the monitoring requirements should be conditioned with the qualifier that the monitoring should only be done to the extent that time and resources allow and only where and when it is safe to do.
91	Deletion of Individual Residential Car Washing	No longer included as Conditionally Exempted	The permit would no longer allow the discharge of individual residential car wash water. Some of the language formerly in this section of the permit has been moved to Provision C.7.e.i. This conditionally exempted discharge should continue to be allowed by the permit provided minimal amounts of water and pollutants are generated. The Fact Sheet does not describe why these types of discharges should no longer be allowed. The Federal Register that adopted the stormwater permitting requirements states the following: "... in general, municipalities will not be held responsible for prohibiting some specific components of discharges or flows listed below [list includes 'individual	Restore this conditionally exempted discharge to the MRP.

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			residential car washing’] through their municipal separate storm sewer system even though such components may be considered non-storm water discharges, unless such discharges are specifically identified on a case-by-case basis as needing to be addressed.” (Vol. 55, No. 22, Friday, Nov. 16, 1990, page 47995)	
92	C.15.b.iv.(1)(c)	Discharge Type –Swimming Pool, Hot Tub, Spa, and Fountain Water Discharges	The additional language added about enabling “the installation of a sanitary sewer discharge location to allow draining events for pools, spas, and fountains to occur with the proper permits from the local sanitary sewer agency” is awkwardly worded, unclear, and needs to be modified.	Modify the language in this section to make it clear that the Permittees are only responsible for providing owners of these features with information about how they may apply for the proper permits to discharge to the sanitary sewer.